

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

MARK PETERSON,

Plaintiffs,

vs.

CITY OF YAKIMA, TONY O'ROURKE,  
MARK SOPTICH, and ANTHONY DOAN,

Defendants.

CASE NO. 1:18-CV-3136-TOR

CIVIL MINUTES

DATE: 8/29/2022

LOCATION: Yakima

JURY TRIAL – DAY ONE

**JUDGE THOMAS O. RICE**

|   |                  |   |                       |
|---|------------------|---|-----------------------|
| Bridgette Fortenberry                                   | LC 02            | N/A   | Allison Anderson      |
| <b>Courtroom Deputy</b>                                 | <b>Law Clerk</b> | <b>Interpreter</b>                              | <b>Court Reporter</b> |
| Casey M. Bruner / Matthew Z. Crotty / Matthew A. Mensik |                  | Megan M. Coluccio / Stuart Cassel / Ann Trivett |                       |
| <b>Plaintiffs' Counsel</b>                              |                  | <b>Defendants' Counsel</b>                      |                       |

☒ **Open Court**

☐ **Chambers**

☐ **Telephonic**

**8:37 am All parties present  
w/o jury**

The Court reviewed the preliminary jury instructions with counsel and heard argument on objections.

The Court discussed Plaintiff's motion for clarification re: comparators.

The Court confirmed the parties' joint statement of the case to be read to the jury.

Court and counsel discussed trial procedures.

Ms. Coluccio addressed the Court re: a change to Preliminary Instruction No. 2.  
Mr. Brunner responded.

**8:49 am Recess**

**9:01 am Jury panel brought into open court.  
All parties present w/jury panel.**

Oath of Voir Dire administered to all prospective jurors present (32).

Summary of case read to the jury panel. Courtroom introductions and names of witnesses read to the jury panel. Court advised jury panel of length of trial.

Voir Dire by Court of all prospective jurors present.

Voir Dire by Mr. Crotty.

Voir Dire by Ms. Caluccio.

Court and counsel at sidebar – challenges for cause granted as to Juror Nos. 4, 5, 19, 30, 32. Preemptory challenges made by respective counsel.

**10:33 am** Eight jurors selected to try the cause.  
Oath administered to empaneled jurors to try the cause.  
Remaining jurors excused with the thanks of the Court.

**10:36 am** **Recess with Court's admonishment to jury.**  
**11:03 am** **Reconvened – all parties present with the jury.**

Court read Preliminary Instructions to the jury.  
Opening statement by Mr. Mensik on behalf of Plaintiff.  
Opening statement by Ms. Caluccio on behalf of Defendants.

**12:05 pm** **Jury excused from open court w/ Court's admonishment.**

**12:06 pm** **Recess with Court's admonishment to jury.**  
**1:30 pm** **Reconvened - all parties present with the jury.**

**1:32 pm** **Jeffrey Cutter sworn to testify**

*Direct examination by Mr. Crotty.*

**Exhibit D-538 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit D-538 for admission.

Objection by Defendants.

**Court: Sustained. Plaintiff's Exhibit D-538 is not admitted or published to the jury.**

**Exhibit P-67 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit P-67 for admission.

Objection by Defendants.

**Court: Plaintiff's Exhibit P-67 is admitted over objection and published to the jury.**

**Exhibit D-617/P-75 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit D-617/P-75 for admission.

Objection by Defendants.

**Court: Plaintiff's Exhibit D-617/P-75 is admitted over objection and published to the jury.**

**Exhibit D-619/P-89 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit D-619/P-089 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit D-619/P-089 is admitted and published to the jury.**

**Exhibit D-620/P-4 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit D-620/P-4 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit Exhibit D-620/P-4 is admitted and published to the jury.**

**Exhibit D-594 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit D-594 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit Exhibit D-594 is admitted and published to the jury.**

**Exhibit P-108 discussed with witness.**

Mr. Crotty offered Plaintiff's Exhibit P-108 for admission.

Objection by Defendants.

**Court: Plaintiff's Exhibit P-108 is admitted over objection and published to the jury.**

*Cross-examination by Ms. Caluccio.*

**Exhibits P-108, P-89 discussed with witness.**

*Re-direct by Mr. Crotty.*

**Witness steps down.**

**2:57 pm**

**Recess with Court's admonishment to jury.**

**3:13 pm**

**Reconvened – all parties present with the jury.**

**3:14 pm**

**Anthony (Tony) Doan sworn to testify.**

*Direct examination by Mr. Mensik*

**Exhibit P-6 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-6 for admission.

Objection/no objection by Defendants.

**Court: Plaintiff's Exhibit P-6 is admitted and published to the jury.**

**Exhibit P-8 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-8 for admission.

Objection by Defendants.

**Court: Sustained Plaintiff's Exhibit P-8 is not admitted or published to the jury.**

**Exhibit P-34 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-34 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit P-34 is admitted and published to the jury.**

**Exhibit P-33 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-33 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit P-33 is admitted and published to the jury.**

**Exhibit P-41 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-41 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit P-41 is admitted and published to the jury.**

**Exhibit P-45 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-45 for admission.

No objection by Defendants.

**Court: Plaintiff's Exhibit P-45 is admitted and published to the jury.**

**3:55 pm**

**Recess with Court's admonishment to jury.**

**4:09 pm**

**Reconvened. All parties present without jury.**

Mr. Mensik addressed the Court re: certain exhibits.

Ms. Coluccio responded.

Court: Prior ruling stands.

**4:13 pm**

**All parties present with the jury.**

Anthony (Tony) Doan resumed the stand, previously sworn to testify.

Direct examination continued by Mr. Mensik.

**Exhibit P-45 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-49 for admission.

Objection by Defendants.

**Court: Plaintiff's Exhibit P-49 is admitted over objection and published to the jury.**

**Exhibit P-50 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-50 for admission.

Objection by Defendants.

**Court Plaintiff's Exhibit P-50 is admitted over objection and published to the jury.**

**Exhibit P-74 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-74 for admission.

No objection by Defendants.

**Court Plaintiff's Exhibit P-74 is admitted and published to the jury.**

**Exhibit D-547 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit D-547 for admission.

No objection by Defendants.

**Court Plaintiff's Exhibit D-547 is admitted and published to the jury.**

**Exhibit P-65 discussed with witness.**

Mr. Mensik offered Plaintiff's Exhibit P-65 for admission.

No objection by Defendants.

**Court Plaintiff's Exhibit P-65 is admitted and published to the jury.**

**4:59 pm Jury instructed to return to court on August 30, 2022, to begin proceedings at 8:30 am.**  
 Jury excused from open court with Court's admonishment.  
 All parties present without the jury.

The Court advised counsel that if any matters need to be addressed by the Court they shall be taken up at 8:15 a.m. tomorrow morning. Trial will resume at 8:30 a.m.

The Court instructed Plaintiffs to advise opposing counsel of their witness schedule for tomorrow.

**5:00 pm Court adjourned.**

|                      |                    |                |                        |
|----------------------|--------------------|----------------|------------------------|
| CONVENED: 8:37 AM    | RECESSED: 8:49 AM  | TIME: 12 MINS  | TOTAL: 6 HRS / 17 MINS |
| RECONVENED: 9:01 AM  | RECESSED: 10:36 AM | 1 HR / 35 MINS |                        |
| RECONVENED: 11:03 AM | RECESSED: 12:06 PM | 1 HR / 3 MINS  |                        |
| RECONVENED: 1:03 PM  | RECESSED: 2:57 PM  | 1 HR / 54 MINS |                        |
| RECONVENED: 3:13 PM  | RECESSED: 3:55 PM  | 42 MINS        |                        |
| RECONVENED: 4:09 PM  | ADJOURNED: 5:00 PM | 51 MINS        |                        |